

US EPA ARCHIVE DOCUMENT

EPA POLICY ON ENVIRONMENTAL JUSTICE FOR WORKING WITH FEDERALLY RECOGNIZED TRIBES AND INDIGENOUS PEOPLES

Frequently-Asked Questions (10-8-15)

These Frequently-Asked Questions (FAQ) are designed to provide assistance in implementing the *EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples*. Each referenced document is both “hyperlinked” and listed at the end of the FAQs.

1. What is the purpose of the EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples (Policy)?

The [Policy](#) is designed to clarify and integrate environmental justice principles in a consistent manner in the EPA’s work with federally recognized tribes, indigenous peoples, and others living in Indian country.

The Policy affirms the EPA’s commitment to provide to tribes and indigenous peoples throughout the United States, and others living in Indian country, fair treatment and meaningful involvement in the EPA decisions that may affect their health or environment.

2. What is the scope of the Policy?

The Policy pertains to the environmental and public health concerns of federally recognized tribes, state-recognized tribes, individual tribal members of federally recognized and state-recognized tribes, indigenous and tribal community-based/grassroots organizations, Native Hawaiians, Native Pacific Islanders, individual Native Americans, and others living in Indian country.

3. What does the Policy cover?

The Policy has 4 focus areas regarding the EPA’s work in Indian country and in areas of interest to tribes and indigenous peoples throughout the United States:

- (1) Direct implementation of federal environmental programs and addressing environmental justice in Indian country and throughout the United States;
- (2) Working with federally recognized tribes on a government-to-government basis to integrate environmental justice;
- (3) Engagement and collaboration with indigenous peoples (state recognized tribes, tribal members, etc.) on environmental justice; and
- (4) Coordination and collaboration with federal, tribal, state, and local government agencies to address environmental justice issues.

4. Where does the Policy apply?

The Policy relates to the EPA’s work with federally recognized tribes, state-recognized tribes; indigenous and tribal community-based organizations; individual members of federally recognized tribes, including those living on a different reservation or living outside Indian country; individual members of state-recognized tribes; Native Hawaiians; Native Pacific Islanders; individual Native Americans; and others living in Indian country. As such, the Policy applies in all areas of the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. The

Policy calls for the full implementation of environmental justice for tribes and indigenous peoples on or off reservations, including usual and accustomed areas, treaty rights areas, sacred sites, etc.

5. What is environmental justice?

The EPA definition of environmental justice is “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA has this goal for all communities and persons across this Nation to help ensure everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

6. Does the Policy define the terms “federally recognized tribe,” “indigenous peoples,” and Indian country”?

Yes. These terms are defined in the Policy’s Appendix.

7. Are the terms “federally recognized tribes” and “indigenous peoples” synonymous?

No, the terms “federally recognized tribes” and “indigenous peoples” are not synonymous. “Indigenous peoples,” for the purposes of this Policy, does not include federally recognized tribal governments. The Policy draws a distinction between indigenous peoples and federally recognized tribes in order to ensure Agency staff understand that the relationships the EPA and other federal agencies have with federally recognized tribes are based on a government-to-government relationship, while the relationships with all other indigenous peoples is the same as with any other U.S. citizen or non-governmental organization.

8. How was the Policy developed?

The EPA began developing the Policy in 2011, with the creation of the EPA Tribal and Indigenous Peoples Environmental Justice Work Group, which was comprised of EPA staff and tasked with creating a draft policy. In addition, the EPA sought advice and recommendations from the National Environmental Justice Advisory Council (NEJAC). The NEJAC's Indigenous Peoples Work Group (IPWG), comprised of tribal and indigenous environmental justice stakeholder representatives, assisted the NEJAC in providing advice and recommendations to the EPA on how to work effectively with federally recognized tribes and indigenous peoples to address their environmental justice issues. The EPA presented the drafts of the Policy at numerous tribal meetings and held discussions about its development with various tribes and tribal organizations. The EPA also held three separate tribal consultation and public comment periods during the development of the Policy.

9. What is the basis for the Policy?

The Policy is based on 3 key documents underpinning the EPA environmental justice and tribal programs:

- (1) [Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations](#);
- (2) The EPA’s overarching strategies for advancing environmental justice (e.g. [Plan EJ 2014](#), the new strategy being developed – [EJ 2020 Action Agenda](#), and selected strategies); and
- (3) [The EPA Policy for the Administration of Environmental Programs on Indian Reservations](#) (EPA Indian Policy).

10. How does Executive Order 12898 relate to this Policy?

[Executive Order \(EO\) 12898](#), provides that, "To the greatest extent practicable and permitted by law...each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." Section 6-606 of the EO indicates it applies equally to Native American programs, making it applicable to tribal and indigenous populations.

11. What are Plan EJ 2014 and the EJ 2020 Action Agenda?

[Plan EJ 2014](#) is a roadmap the EPA developed to help integrate environmental justice into the Agency's programs, policies, and activities. It is important to note that *Plan EJ 2014* is not a rule or regulation, it is a strategy to help integrate environmental justice into the EPA's day to day activities.

[EJ 2020 Action Agenda](#) is an EPA strategy that builds upon the tools developed in *Plan EJ 2014* to advance environmental justice through the EPA's programs, policies and activities, and supports the cross-agency strategy on making a visible difference in environmentally overburdened, underserved, and economically distressed communities.

12. How does the 1984 EPA Indian Policy relate to this Policy?

The [EPA Indian Policy](#) guides the Agency in working with tribes to protect human health and the environment, and provides guidance in the conduct of the EPA's congressionally mandated responsibilities. This Policy also provides that the EPA give special consideration to tribal interests in developing EPA policy, and ensures close involvement of tribal governments in making decisions and managing environmental programs that affect tribes.

13. How does the Policy relate to tribal treaty rights?

The Policy does not expressly mention tribal treaty rights, however, its principles "guide the Agency's efforts to work with federally recognized tribes and indigenous peoples in all areas of the United States," including areas within and outside of Indian country where tribes have reserved treaty rights.

14. What is the UNDRIP and how is it relevant to the EPA Policy?

The [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP) is a document developed by the United Nations containing 46 articles on the rights of indigenous peoples. Although not legally binding or a statement of current international law, the [United States supports the Declaration](#). As stated in the Policy, the EPA recognizes the importance of the UNDRIP and the principles that are consistent with the mission and authorities of the Agency.

15. Why did the EPA develop one single policy for federally recognized tribes and indigenous peoples, instead of two separate environmental justice policies?

The EPA believes that a single policy best serves the Agency's goal, which is to clarify the manner in which the Agency incorporates environmental justice into its work with federally recognized tribes, indigenous peoples, and others living in Indian country, while avoiding confusion and redundancy. For these reasons, the Policy is inclusive of federally recognized tribes, all other indigenous peoples, and others living in Indian country.

16. How does the Policy relate to EPA-approved State environmental programs?

The EPA encourages state governments to incorporate environmental justice principles into their own policies and programs that may affect tribes and indigenous peoples.

17. How does this Policy affect the Agency's compliance monitoring and enforcement activities with federally recognized tribes and indigenous peoples (i.e. state recognized tribes, tribal members, indigenous grassroots organizations, etc.)?

EPA is committed to consult and coordinate with federally recognized tribal governments and to conduct outreach to indigenous peoples to provide information on: 1) the failure of the regulated community to comply with federal environmental laws; 2) the potential public health and environmental impacts associated with that non-compliance; 3) efforts to address the non-compliance; and 4) available judicial and administrative solutions that address the non-compliance, as well as concerns and needs identified by tribal governments or indigenous peoples. EPA will continue to look to the *Guidance on the Enforcement Principles of the 1984 Indian Policy* and the *Questions and Answers on the Tribal Enforcement Process* for engaging in appropriate consultation and coordination with federally recognized tribal governments. Any communication with outside external parties, including with federally recognized tribal governments and indigenous peoples, is guided by a memorandum entitled *Restrictions on Communicating with Outside Parties Regarding Enforcement Actions*.

18. How does the Policy affect the EPA's working relationships and approach to environmental justice with federally recognized tribes?

The Policy confirms the EPA's commitment to work with federally recognized tribes on a government-to-government basis when environmental justice issues arise; clarifies the EPA's intention to work with interested tribes, to help build capacity to address issues of environmental justice; recognizes that tribes have public health and environmental justice interests outside of Indian country; and confirms the EPA's commitment to work with all parties in Indian country who raise issues of environmental justice.

19. How does the Policy affect the EPA's working relationships and approach to environmental justice with indigenous peoples?

The Policy clarifies the EPA's commitment to be responsive to indigenous communities environmental justice concerns; indicates the EPA proactively engages indigenous communities when the Agency is implementing federal environmental programs; and recognizes that indigenous peoples have environmental and public health/environmental justice interests outside of Indian country.

20. How does the Policy affect the EPA's working relationships and approach to environmental justice with non-tribal/non-indigenous peoples living in Indian country?

The Policy clarifies the EPA's commitment to be responsive to the environmental justice concerns of non-tribal/non-indigenous peoples living in Indian country and engage them, as the Agency would if they were not in Indian country.

21. How does the Policy affect the EPA's working relationships and approach to environmental justice with other federal agencies and states?

The Policy encourages federal, state and local government agencies to incorporate environmental justice principles into their programs, policies, and activities that may affect federally recognized tribes, indigenous peoples throughout the United States, and others living in Indian country. The

Policy also calls for the EPA to collaborate with other federal agencies to leverage resources and address the environmental justice concerns of federally recognized tribes and indigenous peoples throughout the United States, and others living in Indian country.

22. How does the Policy affect the EPA's working relationships and approach to environmental justice within the EPA?

The Policy notes the importance of effective coordination and collaboration among the tribal program staff and environmental justice program staff, as well as regional and headquarters program staff, to appropriately respond to the environmental justice concerns of federally recognized tribes, indigenous peoples, and others living in Indian country.

23. How does the EPA coordinate and collaborate with other federal agencies on issues of environmental justice, including those pertaining to tribes and indigenous peoples?

At a national level, the EPA primarily coordinates with other federal agencies through the [Federal Interagency Work Group on Environmental Justice](#) (EJ IWG). The EJ IWG has drafted an action agenda designed to play a central role in creating healthy and sustainable communities by bringing together federal agencies to address critical environmental justice issues. The EJ IWG was created by Executive Order 12898 in 1994. The EJ IWG's Native American/Indigenous Peoples Committee coordinates federal efforts to address the environmental justice concerns and interests of federally recognized tribes, indigenous peoples, and others living in Indian country.

24. Who is responsible for oversight and coordination of the Policy?

The EPA Assistant Administrators and Regional Administrators oversee the implementation of the Agency's priorities and plans for integrating environmental justice concerns and issues within their respective offices and regions. They are also responsible for designating a staff lead to support this effort. These leads are referred to as the Environmental Justice Tribal and Indigenous Peoples Advisors.

25. Who are the Environmental Justice Tribal and Indigenous Peoples Advisors?

The Environmental Justice Tribal and Indigenous Peoples Advisors (EJTIPAs) are the EPA staff leads for facilitating the effective implementation of the Policy within their respective offices and regions. The EJTIPAs are appointed by the EPA Assistant Administrators and Regional Administrators.

26. Where can I find a list of the EPA program and regional office points of contact for the Policy, who are known as the EJ TIPAs?

A list of the EPA points of contact for the Policy (the EJ TIPAs) can be found at the Policy website: <http://www.epa.gov/environmentaljustice/indigenous/index.html>

27. What resource tools does the Policy offer to support implementation?

The Policy Appendix contains information on the EPA tools and resources available to improve the integration of environmental justice, and the understanding and effective implementation of the Policy.

28. What is the National Environmental Justice Advisory Council and where can I find more information about it?

The [National Environmental Justice Advisory Council](#) (NEJAC) is a federal advisory committee to the EPA. The NEJAC provides advice and recommendations about broad, cross-cutting issues

related to environmental justice issues, from all stakeholders involved in the environmental justice dialogue.

29. Where can I find information about NEJAC's advice and recommendations on the Policy?

The NEJAC, with support from the Indigenous Peoples Work Group, provided three sets of advice and recommendations on the Agency's efforts to develop a Policy to work with federally recognized tribes and indigenous peoples on environmental justice:

[Recommendations for Fostering Environmental Justice for Tribes and Indigenous Peoples \(1/2013\)](#)

[Recommendations for the Working Draft of EPA Policy on Environmental Justice for Tribes and Indigenous Peoples \(1/2013\)](#)

[Proposed Advice and Recommendations on Implementation of the EPA Policy on Environmental Justice for Tribes and Indigenous Peoples \(9/2014\)](#)

Additional NEJAC advice and recommendations pertaining to tribal and indigenous peoples EJ Issues:

[Meaningful Involvement and Fair treatment by Tribal Environmental Regulatory Programs \(2004\)](#)

[Guide on Consultation and Collaboration with Indian Tribal Governments and the Public Participation of Indigenous Groups and Tribal Members in Environmental Decision Making \(2000\)](#)

30. What is the mission of the Office of Environmental Justice (OEJ)?

The [Office of Environmental Justice](#) leads the EPA in the integration of environmental justice into all of the EPA's programs, policies and activities so everyone can enjoy the same degree of protection from environmental and health hazards and equal access to the decision-making processes to have a healthy environment in which to live, learn, and work.

31. What is the mission of the American Indian Environmental Office (AIEO)?

The [American Indian Environmental Office](#) leads the EPA's efforts to protect human health and the environment of federally recognized tribes by supporting implementation of federal environmental laws consistent with the federal trust responsibility, the government-to-government relationship, and EPA's 1984 Indian Policy.

FAQ References

[EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples](#)

[Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations](#)

[EPA Policy for the Administration of Environmental Programs on Indian Reservations](#)

[United Nations Declaration on the Rights of Indigenous Peoples \(UNDRIP\)](#)

[President Obama statement regarding United Nations Declaration on the Rights of Indigenous Peoples](#)

[National Environmental Justice Advisory Council \(NEJAC\)](#)

[Federal Interagency Working Group on Environmental Justice \(EJ IWG\)](#)